United Nations ST/AI/1999/12

Secretariat

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Administrative instruction

Family leave, sick leave and maternity leave*

The Under-Secretary-General for Management, pursuant to section 4.2 of the Secretary-General's bulletin ST/SGB/1997/1 and for the purpose of implementing staff rules 105.2, 106.2 and 106.3, 205.3, 206.3 and 206.7, and 306.2, hereby promulgates the following:

I. Family leave

Section 1
General

Family leave may be granted under staff rules 105.2 (a) (iii), 106.2 (c), 106.3 (b), 205.3 (a) (iii) and 206.7 (b), subject to the conditions set out below.

Section 2
Family leave under the uncertified sick leave entitlement

2.1 Staff members shall inform the executive office or local personnel office, through their supervisor, of their intention to use in all or in part their uncertified sick leave entitlement under staff rule 106.2 (c) for paternity leave at least two weeks in advance of the anticipated birth or adoption of a child. If the birth or adoption occurs earlier than anticipated, staff members shall so inform the executive office or local personnel office, through their supervisor, on the first day taken as paternity leave.

2.2 In cases of family-related emergencies, for which the entitlement to uncertified sick leave under staff rule 106.2 (c) may be used, the staff member shall make every effort to inform his or her supervisor in advance of the proposed leave and of its duration; if this is not possible, the staff member shall provide the required information on the first day taken as emergency family leave.

Section 3
Paternity leave under the maternity leave entitlement

3.1 When a staff member is entitled to maternity leave under the 100 or 200 series of the Staff Rules and the spouse holds an appointment under those rules, the spouse may, under staff rules 106.3 (b) and 206.7 (b), use as paternity leave the unused portion of the mother's maternity leave.

3.2 Paternity leave under section 3.1 of this instruction may be taken following the birth of the child, and within the period of post-delivery leave to which the mother would otherwise have been entitled under conditions set out in section 11 of the present instruction. Paternity leave may be taken at the same time as post-delivery maternity leave, or after the mother has returned to work.

3.3 The maximum period of unused maternity leave which may be converted to paternity leave shall be four weeks.

3.4 A staff member wishing to avail himself of paternity leave under this section shall submit, through his supervisor, a request to that effect to the executive or local personnel office, together with a written statement from the mother that she agrees to the proposed leave arrangement and to the consequent reduction in the post-natal leave to which she would otherwise have been entitled. Paternity leave shall be granted only after verification with the relevant executive or local personnel office of the period of maternity leave which will not be used by the mother.

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3.5 Annual leave shall accrue to the father when taking paternity leave under the maternity leave entitlement of the spouse.

3.6 No sick leave shall be granted during paternity leave taken under this section.

Section 4
Adoption leave

4.1 The Secretary-General may, under staff rules 105.2 and 205.3, grant special leave with full pay to a staff member who adopts a child subject to the following conditions:

(a) The staff member is expected by the Secretary-General to serve for at least one year after returning from such special leave, and

(b) The child is legally adopted or, in the case of customary or de facto adoption, may be recognized as a dependant of the staff member under the applicable rules. However, leave under this section shall not be granted when the child is a stepchild of the staff member, or when the child has previously been living with the staff member for an extended period of time. Normally, the adopted child must be under the age of 18 years.

4.2 Special leave granted under this section shall be for a continuous period not exceeding eight weeks starting from the date of the adopted child's arrival in the adopting staff member's home.

4.3 When both adoptive parents are staff members and both request adoption leave, their combined periods of leave under this section may not exceed eight weeks. The periods of leave of each spouse may be taken concurrently or sequentially.

4.4 In accordance with staff rule 105.2, service credits for all entitlements shall accrue during the period of special leave with full pay under this section.

4.5 Staff members wishing to avail themselves of special leave under this section are required to submit a request for that purpose to their executive or local personnel office at least one month in advance of the date on which they anticipate the adoption to take place. The request must be accompanied by the following supporting documentation:

(a) The child's birth certificate, or, when it is impossible to obtain a birth certificate, other documentary evidence of the birth of the child satisfactory to the Secretary-General;

(b) When a child has been legally adopted, the staff member shall submit official documentary evidence that the child has been adopted in accordance with the relevant statutory provisions, or that the customary or de facto adoption of the child is formally recognized by prescribed court procedure;

(c) When legal adoption proceedings have been initiated but are not completed, the staff member shall submit official documentary evidence that an adoption proceeding has been initiated and that, pending completion of the proceeding, the child is being entrusted to the staff member's care. Once adoption formalities have been completed, official proof that adoption has taken place must be provided;

(d) In cases of customary or de facto adoption, the staff member shall be required to submit a statement from the appropriate national authorities that legal adoption is not possible because there is no statutory provision for adoption or prescribed court procedure for official recognition of customary or de facto adoption. Additionally, the staff member will be required to certify by affidavit or other appropriate formal statement that the child will be residing with him or her, and that he or she will assume the duties and obligations of a parent vis-à-vis the child. Once the child has arrived in the staff member's home, the staff member shall also submit evidence satisfactory to the Secretary-General that the child resides with the staff member and that a parental relationship has been established.

Section 5
Special leave without pay

Parental leave as special leave without pay under staff rule 105.2 for a newly born or adopted child

5.1 Special leave without pay for a period of up to two years may be granted as parental leave under staff rule 105.2 (a) (iii) (b) to a staff member who is the mother or the father of a newly born or adopted child, provided the staff member has a permanent appointment, or has completed three years of continuous service on a fixed-term appointment and is expected by the Secretary-General to continue in service for at least six months beyond the date of return from the proposed parental leave.

5.2 In exceptional circumstances, such as serious disability, injury or illness of the child, an additional leave period of special leave up to a maximum of two years may be granted. The staff member's request should be accompanied by a medical certificate attesting to the child's disability or illness. The executive or local personnel office shall consult with the Medical Director or designated medical officer regarding the acceptability of the certificate prior to granting the additional leave.

5.3 When both parents are staff members and both request special leave without pay under this section, the combined periods of leave may not exceed two years under section 5.1, or four years in the exceptional circumstances provided for in section 5.2.

5.4 Requests for parental leave as special leave without pay under this section should normally be submitted to the executive or local personnel office, through the supervisor, at least one month before the commencement of the proposed leave.

5.5 In order to ensure reabsorption of the staff member on return from leave under this section, his or her department or office shall ensure that a post is available at the appropriate level and with functions comparable to those discharged by the staff member before leave was taken. The department or office concerned may require the staff member to undertake training in order to facilitate his or her reabsorption.

Special leave in cases of death or emergency

5.6 In accordance with staff rules 105.2 (a) (iii) *c.* and 205.3 (a) (iii), special leave without pay may be also granted upon the death of a member of the immediate family of the staff member, which includes a spouse, child, parent, brother or sister, or in case of serious family emergency. Such leave shall normally be granted for a period of up to two calendar weeks, plus necessary travel time, if applicable.

II. Sick leave

Section 6
General

6.1 Sick leave may be granted under staff rules 106.2, 206.3 and 306.2 in accordance with the provisions of the present instruction. However, sick leave for staff members on an appointment of limited duration under the 300 series of the Staff Rules shall be governed by the relevant provisions of the administrative instruction governing appointments of limited duration.

6.2 All sick leave must be supported by a certificate or report from a medical practitioner licensed to practice where the certificate or report is issued, except when uncertified sick leave is permitted under conditions set out in staff rules 106.2 (c), 206.3 (c) and 306.2 (iii).

Section 7
Certification of sick leave

7.1 Unless uncertified sick leave is allowed under section 6.2 above, a staff member who is unable to perform his or her duties by reason of illness or injury must submit a medical certificate or a medical report, as provided in sections 7.2 and 7.3 below, no later than the tenth working day following the initial absence from duty.

7.2 A total of up to 10 working days taken cumulatively or consecutively during a calendar year may be approved as certified sick leave by the executive or local personnel office upon submission by the staff member of a certificate from a licensed medical practitioner indicating the date or dates of absence from duty by reason of illness, injury or incapacitation, without identification of diagnosis, or upon submission by the staff member of form MS.40, duly completed and signed by the attending physician.

7.3 After 10 working days of sick leave have been certified in accordance with section 7.2, certification of further sick leave by the Medical Director or designated medical officer shall be required. For that purpose, the staff member shall submit to the executive officer or other appropriate official, in a sealed envelope, a detailed medical report from a licensed medical practitioner.

7.4 However, no medical report need be submitted under section 7.3 above in the following cases:

(a) The period of absence owing to illness or injury has already been certified by the Medical Director or designated medical officer on the basis of a "sent home" slip;

(b) The staff member claims sick leave for half a day on account of visit to a licensed medical practitioner, in which case certified sick leave may be approved by the executive officer or other appropriate official on production of a medical certificate indicating that the staff member attended the doctor or dentist.

7.5 If no certificate or report is submitted as required by sections 7.1 to 7.4 above or if the sick leave is not certified by the Medical Director or designated medical officer, absence shall be treated as follows for administrative purposes:

(a) For staff appointed under the 100 and 200 series of the Staff Rules, the absence shall be treated as unauthorized absence in accordance with staff rules 105.1 (b) (ii) and 205.1 (d). However, if the staff member belatedly submits the required medical certificate or report and establishes to the Secretary-General's satisfaction that the late submission was attributable to circumstances beyond his

or her control, the absence may be charged to sick leave upon certification by the Medical Director or designated medical officer;

(b) For staff appointed under the 300 series of the Staff Rules, the period of uncertified absence shall be treated as special leave without pay in accordance with staff rule 306.2 (iii).

Section 8
Relationship of sick leave to other entitlements under the 100 and 200 series

Exhaustion of sick leave entitlement

8.1 When the entitlement to sick leave has been exhausted, further certified sick leave shall be charged to annual leave. When the entitlements to sick leave and annual leave have been exhausted, the staff member shall be placed on special leave without pay.

8.2 When a staff member has used all of his or her entitlement to sick leave with full pay, the executive or local personnel office shall bring the situation to the attention of the Medical Director or designated medical officer in order to determine whether that staff member should be considered for a disability benefit under article 33 (a) of the Regulations of the United Nations Joint Staff Pension Fund while the staff member is on sick leave with half pay. When the staff member is being considered for such a benefit and paid leave entitlements have been exhausted because of delay in the medical determination of the staff member's incapacity for further service or in the decision by the United Nations Staff Pension Committee whether to award a disability benefit, the staff member shall be placed on special leave with half pay until the date of such decision.

Combination of sick leave on half pay with annual leave or half-time duty

8.3 Each day of sick leave at half pay may be combined with one-half day's annual leave, provided the staff member previously agrees to such arrangement. In such case, both a whole day's sick leave on half pay and a half-day's annual leave shall be charged for each working day involved.

8.4 When a staff member returns to duty on a half-time basis, he or she may be paid for the other half working day on the basis of a whole day's sick leave at half pay, provided the staff member previously agrees to such arrangement. In such case, both the half-day worked and the whole day's sick leave at half pay shall be charged for each working day involved.

8.5 Other combinations may be made, if requested by the staff member, provided that the interests of the staff member are duly taken into account, and that such arrangements are consistent with the Staff Regulations and Rules.

Accrual of annual leave during sick leave

8.6 In accordance with staff rules 105.1 (a) and 205.1 (a), a staff member shall accrue annual leave:

(a) While on sick leave with full pay status;

(b) While absent from work under an agreed arrangement whereby a half-day of annual leave is combined with a full day of sick leave at half pay;

(c) While absent from work under an agreed arrangement whereby half-time duty is combined with a full day of sick leave at half pay.

Accrual of other entitlements during sick leave

8.7 Periods of sick leave whether on full or half pay shall not affect the accrual of service credits towards salary increment, home leave, termination indemnity and repatriation grant.

Sick leave within a period of annual leave

8.8 If sick leave for a period of more than five consecutive working days is requested within a period of annual leave under staff rule 106.2 (e) and the sick leave involves an extension of the period of absence from work, the executive officer or other appropriate official must be informed before the approved period expires, where practicable with the submission of a medical certificate or report, as appropriate. The executive officer or other appropriate official shall inform the Medical Director or designated medical officer of the situation. The request for approval of sick leave during annual leave must be submitted together with the requisite medical certificate or report, immediately upon return to duty.

Extension of fixed-term appointments for utilization of sick leave entitlement

8.9 When a staff member on a fixed-term appointment is incapacitated for service by reason of an illness which continues beyond the date of expiration of the appointment, he or she shall be granted an extension of the appointment, after consultation with the Medical Director or designated medical officer, for the continuous period of certified illness up to the maximum entitlement to sick leave at full pay and half pay under staff rules 106.2 or 206.3.

8.10 When a staff member's fixed-term appointment is extended solely to enable him or her to utilize his or her sick leave entitlement, such extension shall not give rise to any further entitlement to salary increment, annual leave, sick leave, maternity leave or home leave, but credit towards repatriation grant may continue to accrue if the staff member has not returned to his or her home country. Sick leave on half pay during the period of extension may not be supplemented by annual leave. In the event of death during the period of extension, the period prior to the death may be taken into account in the determination of the death benefit provided in staff rules 109.10 (a) (vi) or 209.11 (a) (v).

III. Maternity leave

Section 9
General

Maternity leave shall be granted under staff rules 106.3 (a) (ii) and (iii), and 206.7 (a) (ii) and (iii), in accordance with the provisions of the present instruction.

Section 10
Pre-delivery leave

10.1 Upon submission by the staff member of a certificate from a licensed medical practitioner or midwife indicating the expected date of delivery, the executive or local personnel office shall normally grant pre-delivery leave for a period of six weeks. Any questions or doubts as to the validity of the medical certificate shall be referred to the Medical Director or designated medical officer.

10.2 A shorter period may be granted at the request of the staff member, on the basis of a certification from a licensed medical practitioner or midwife, which must be approved by the Medical Director or designated medical officer, indicating that the staff member is fit to continue to work. Such a shorter period shall normally not be for less than two weeks.

10.3 A staff member who meets the requirements for a shorter period of pre-delivery leave under section 10.2 above may, at her request, be permitted to work part-time between the sixth and second week preceding the expected date of delivery. In such cases, the half days of absence shall be charged to the staff member's maternity leave entitlement.

10.4 If a period of less than six weeks of pre-delivery leave has been granted, or if the staff member is authorized to work part-time, and it later becomes apparent that the staff member is not fit to continue to work for any reason, the matter shall be referred to the Medical Director or designated medical officer by the executive or local personnel office. The staff member shall be required to commence her pre-delivery leave immediately when the Medical Director or designated medical officer determines that the staff member is not fit to continue to work.

Section 11
Post-delivery leave

11.1 On the basis of the birth certificate, post-delivery leave shall be granted for a period equivalent to the difference between 16 weeks and the actual period of pre-delivery leave. However, if owing to a miscalculation on the part of the medical practitioner or midwife, the pre-delivery leave was more than six weeks, the staff member shall be allowed post-delivery leave of no less than 10 weeks.

11.2 The executive or local personnel office shall establish the date of return to duty on the basis of section 11.1 above. At the request of the staff member, an earlier date of return to duty may be established, provided a minimum period of six weeks following delivery has elapsed.

11.3 The unused portion of post-delivery maternity leave may be used by the father of the child as paternity leave in accordance with section 3 of this instruction.

Section 12
Relationship of maternity leave to other entitlements

Sick leave and annual leave

12.1 No sick leave shall be granted during maternity leave. Annual leave shall accrue but shall not be credited until the staff member has completed six months of active duty following completion of maternity leave. Periods of annual, special or sick leave taken immediately after maternity leave shall not count towards completion of the six months on active duty status.

Extension of fixed-term appointments

12.2 Pregnant staff members on fixed-term appointments shall be considered for extension or conversion of their appointment under the same criteria as other staff. The fact that a staff member is or will be on maternity leave shall not be a factor in that consideration.

12.3 If, however, on the basis of considerations unrelated to the staff member's pregnancy, a decision is made not to offer a new fixed-term appointment and the current appointment is due to expire during the period of maternity leave, the appointment will be extended to cover the full duration of the leave. This provision shall not apply in cases

where the fixed-term appointment expires more than six weeks before the anticipated date of delivery.

12.4 When an appointment is extended solely to enable a staff member to utilize her maternity leave entitlement under section 12.3 above, such extension shall not give rise to any further entitlement to salary increment, annual leave, sick leave or home leave, but credit towards repatriation grant may continue to accrue if the staff member has not returned to her home country. In the event of death during the period of the extension, the period prior to the staff member's death may be taken into account in the determination of the death benefit provided under staff rule 109.10 (a) (vi) or 209.11 (a) (v).

Section 13
Final provisions

13.1 The present administrative instruction shall enter into force on 1 December 1999.

13.2 Administrative instruction ST/AI/1999/3 and Corr.1, of 20 May and 11 June 1999, respectively, are hereby abolished.

(*Signed*) Joseph E. Connor
Under-Secretary-General for Management